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LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 17th June 2025

S.R.O. No. 343/2025—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the award dated the 29th May 2025 passed in the ID Case No. 07 of 2023 [under Section 2-A(2)] passed by the Presiding Officer, Industrial Tribunal, Bhubaneswar on the Industrial Dispute between the Managements of 1. Dist. Manager-*cum*-C.S.O. Khordha, At/P.O. Khordha, PIN No. 752056, Dist. Khordha, Odisha, 2. Managing Director, Odisha Civil Supply Corporation, Plot No. C/2, Nayapali, Bhubaneswar, Dist. Khordha(O), 3. Commissioner-*cum*-Secretary to Govt. of Odisha, State Civil Supply Consumer welfare Department, Govt. of Odisha, Bhubaneswar, 4. M/s Shree Solution and Services, At Mukdadeipur, Dhenkanal, Sasan, Dist. Dhenkanal, PIN. 759001 and Shri Gokul Bhola, Age 53, S/o Bhabagrahi Bhola, At/P.O. Damanabhumi, P.S. Jankia, PIN- 752020, Dist. Khurdha is hereby published as in the schedule below :—

SCHEDULE

BEFORE THE INDUSTRIAL TRIBUNAL, BHUBANSWAR

INDUSTRIAL DISPUTE CASE No. 07 of 2023 [U/s. 2-A(2) of the ID Act -1947]

Dated the 29th May 2025

Present :

Shri Benudhar Patra, LL.M.,
Presiding Officer,
Industrial Tribunal, Bhubaneswar.

Between :

The Managements of -	..	First Party—Managements
1. Dist. Manager- <i>cum</i> -C.S.O. Khordha, At/P.O. Khordha, PIN No. 752056, Dist. Khordha, Odisha.		
2. Managing Director, Odisha Civil Supply Corporation, Plot No. C/2 Nayapali, Bhubaneswar, Dist. Khordha(O).		
3. Commissioner- <i>cum</i> -Secretary to Govt. of Odisha, State Civil Supply Consumer Welfare Department, Govt. of Odisha, Bhubaneswar.		

4. M/s Shree Solution and Services,
At Mukdadeipur, Dhenkanal, Sasan,
Dist. Dhenkanal, PIN- 759001.

And

Shri Gokul Bhola, Age-53,
S/o Bhabagrahi Bhola,
At/P.O. Damanabhumi, P.S. Jankia,
PIN- 752020, Dist. Khurdha.

.. Second Party—Workman

Appearances :

Shri Abhisek Dash, Adv.	.. For the First Party—Management Nos.1,2,3
None	.. For the First Party—Management No. 4
Shri Sushant Dash, Adv.	.. For the Second Party—Workman

AWARD

Being disappointed with the inaction of the Labour Machinery in putting an end to his grievance raised relating to his illegal termination of service w.e.f. the 1st June 2021, the second party has approached this Tribunal by resorting to the provisions of Section 2-A (2) of the Industrial Dispute Act, 1947 (hereinafter referred to as “the Act” with a prayer for his reinstatement in service with back wages and consequential service benefits.

2. The claim as advanced by the second party in his claim statement, in brief, is that on being appointed by the first party No.1, he discharged his duties as a Sales Assistant-cum-Go down Assistant at different stations of Khordha District during the period from the 22nd January 2008 to the 30th May 2021. It is stated that during the period he had discharged his duty continuously without any break, and more specifically he had discharged continuous duty for a period of more than 240 days prior to the alleged termination. According to the second party, while continuing under the managements all of a sudden his service was terminated w.e.f. the 1st June 2021 in gross violation of the provisions of Section 25-F, and so also 25-G of the Act. It is stated that by the time the alleged termination took place he was receiving Rs.7,041 towards his wages. According to the second party, soon after his termination when all his attempt to his higher authority for continuance in service and payment of his outstanding dues proved futile, he ventilated his grievance before the Labour Machinery on the the 18th July 2022 by way of a written complaint but the same having yielded no result he filed the instant petition before this Tribunal on the 22nd February 2023 i.e. after lapse of the stipulated period of 45 days of his raising complaint before the Labour Machinery. It has Specifically been averred in the claim statement that owing to his rendering continuous service for more than a decade, he is entitled to the protection of the provision of the Act and for non-compliance thereof he is entitled to the relief (s) claimed.

3. The first party Nos. 1 to 3 entered contest in the dispute and since the registered notice sent to the first party No.4 returned undelivered with the postal remarks “Refused”, it was set *ex-parte* vide order dated the 5th April 2023.

4. The record reveals that a common written statement is filed on behalf of first party Nos. 1 to 3. It is averred, *Inter alia*, in the written statement that the claim advanced in the application is not tenable as against the first party Nos. 1 to 3; the reason being the second party was engaged to work under first party No.1 through first party No. 4, a Service Providing Agency and thus there existed no employer-employee relationship between the first party No. 1 and the second party. It is stated that the second party was appointed by the first party No.4, who was a service providing agency and was entrusted with the contract of supplying manpower as per the requirement and in the process the second party was deployed by the first party No.4 as a Dusting Operator in RRC-Cum-DSC, Khordha and consequent upon a decision taken by the first party No. 2 for closure of 4 small RRCs vide their Letter No. 374, dated the 7th January 2021 the second party was disengaged from job. It is also stated that as per the agreement it is the Service Provider who should look to benefits of EPF/ESI of the engaged persons and therefore, the first party Nos. 1 to 3 are in no way concerned with the same. Specifically, it has been averred in the written statement that the second party being an outsourced employee provided to the first party No.1 through first party No. 4, it has no connection either with the employment or non-employment of the second party and as such, the claim laid against the first party Nos. 1 to 3 is not maintainable.

5. The second party filed a rejoinder to the written statement wherein it is admitted that the first party No. 4 though was the pay master of the second party, yet for all purpose the first party No. 1 was the principal employer of the second party, who owes certain responsibilities under the Contract Labour (Regulation & Abolition) Act. It is stated that the second party having discharged twelve years of continuous service was entitled to the protection of Section 25-F of the Act and there being admitted non-compliance of the said provision, his termination is not sustainable and is illegal in the eye of law.

6. Basing on the pleadings of the parties, the following issues have been framed :—

ISSUES

- (i) Whether the case is maintainable ?
- (ii) If there exist employer-employee relationship between the first party management No. 1 and the second party, or between the first party No. 4 and the second party?
- (iii) If the action of the management No.1/management No. 4 in termination the services of Shri Golkul Bhola, Ex-Sales Assistant w.e.f. the 1st June 2021 is legal and/or justified?
- (iv) If not, what relief the second party Shri Bhola, is entitled to?

5. In order to substantiate their respective stand, both parties have led oral as well as documentary evidence. While the second party examined himself as WW1 and placed reliance on documents which have been marked as Exts. 1 to 27, the first party Nos.1 to 3 produced Shri Sugda Murmu to be its sole witness and relied on documents which have been marked as

Exts. A to D. The first party No. 4, on the other hand, neither appeared nor participated in the dispute, as a result it was set *ex-parte*.

FINDINGS

6. *Issue Nos. (i) & (ii)*— These two issues are taken up for consideration, as it is the definite stand of the first party Nos. 1 to 3 that there being no employer-employee relationship between it and the second party, the proceeding is not maintainable as against them. Although it has been emphatically averred in the claim statement as well as stated in the evidence of the second party that he was appointed by the first party No.1 and continued to work under it till the 30th May 2021, yet the documents relied by him speak otherwise, inasmuch as, a perusal of Ext. 8 (the wage sheet of SA-cum-G.A. for the month of December 2007 to March 2008); Ext. 9 (the correspondence of the first party No. 1 to the first party No. 2 along with the list of outsourced personnel); Ext. 24 series (the EPF slips) and Ext. 25 (the first page of bank passbook of the second party) reveals that the second party being an outsourced employee was being paid wages by different Service Providers including the first party No. 4, and not by the first party Nos. 1 to 3. Though the second party has tried to convince the Tribunal basing on the document Ext. 11 that during the period 2008-2009 he was being paid wages directly by the first party No. 1, but on scrutiny it is found that total remuneration of all the outsourced employees were passed for payment by the first party No. 1 under the said document and further it reveals therefrom that two more vouchers of Ext. 11 at its bottom disclose the name of the Service Provider as "APTECH/WAGES". On the face of the above, it is difficult to hold that the second party was ever appointed/engaged by first party Nos. 1 to 3 and he used to receive his monthly wages from the first party Nos. 1 to 3. Payment of wages to an employee being an important factor to establish the employer-employee relationship, the second party ought to have placed materials to substantiate the same. In the context, a reference may be made to the decision of the Hon'ble Apex Court in the case of Bengal Nagpur Cotton Mills, Rajnandgaon Vs. Bharat Lal and another, reported in 2011(128) FLR 560 and in the case of Silver Jubilee Tailoring House Vs. Chief Inspector of Shops and Establishments [(1973) 2 LLJ 495]. in the case in hand, there being sufficient evidence on record that the second party was engaged as an outsourced employee to work under first party No. 1 and for all purpose his paymaster was the Service Providing Agency, this Tribunal has no other option than to hold that there did not exist any employer-employee relationship between the first party No. 1 and the second party, rather he being an outsourced employee there existed employer-employee relationship between the first party No. 4 and the second party. However, at the same time it cannot be lost sight of the fact that as per the provisions of the Contract Labour (Regulation & Abolition) Act the first party Nos. 1 to 3 owe certain liability and/or responsibility in the event of non-payment of dues of the second party on account of his disengagement from job and for that matter the first party No. 1 cannot avoid its liability being the Principal Employer of the second party.

In view of the discussion held in the preceding paragraph, the proceeding to the extent, as discussed above, is held to be maintainable against the first party managements.

The Issues are answered accordingly.

7. *Issue No. (iii)*— Under this issue the legality and justifiability of the action of the employer in terminating the services of the second party is to be looked into. The second party in his claim as well as in evidence has stated that he was engaged to work under the first party No.1 w.e.f. the 22nd January 2008 and the said fact is found to have been admitted by MW1 in his cross-examination at Para.16 and further Ext. 8 lends support to such testimony disclosing his engagement w.e.f. the 22nd January 2008. The second party further admits in his cross-examination at Para.16 that he was working under first party No.1 and getting his monthly salary from the Service Provider since 2012. Although in the same paragraph he stated that prior to 2012 he used to receive his salary from first party No. 1, but no document to that effect was produced to corroborate the same, rather it reveals from Ext. 8 that during the period of his engagement prior to 2012 he was engaged through a Service Providing Agency and was being paid consolidated wages like two other employees named in Ext. 8. However, Ext. 24, the EPF statements clearly disclose that he was enrolled in the establishment of the first party No. 4 being a subscriber to the EPF Scheme from March, 2012 and contributed towards the fund till February 2021 i.e. for a period around nine years. In continuation to the aforesaid documentary evidence, the second party has furnished Ext. 12, a letter of the first party No.1 addressed to the first party No. 4 intimating it to deploy the second party, Dusting Operator to work at RRC-cum-DSC, Jatni immediately after closure of RRC-cum-DSC, Khordha. It further reveals from Ext. 21, the letter of the first party No. 1 addressed to the Dy. Collector (grievance), Collectorate, Khordha that pursuant to closure of Khordha Godown the second party was deployed in RRC-cum-DSC, Jatni vide letter dated the 19th January 2021 (Ext. 12) and his salary for the month of February 2021 was released through first party No. 4, but awaiting approval from the Head Office the second party was not paid his salary for the months of March and April 2021. In view of such evidence, it becomes clear that the first party No. 4 utilized the services of the second party till the 30th April 2021 and thereafter terminated his service. MW1 during his cross-examination at Para. 17 has not only admitted the above aspect but also stated that the first party Nos. 1 to 3 have not verified as to if the Service Provider has complied the statutory provisions and provided benefits to the second party. It is also admitted by MW1 in his cross-examination at Para.18 that the first party Nos. 1 to 3 have not ensured if the first party No. 4 has given the statutory benefits to the second party at the time of his termination from service. It is also in the cross-examination of MW1 that no document is filed in support of the fact that the Service Provider was intimated regarding closure of the RRC-cum-DSC w.e.f. the 31st March 2021.

8. On an analysis of the evidence, both oral and documentary what transpires is that the second party being an outsourced employee sponsored through the first party No. 4 was engaged under the first party No. 1 From March 2012 till April 2021 and thereafter suffered disengagement despite clear stipulation of first party No.1 to deploy the second party to work at RRC-cum-DSC, Jatni immediately after closure of RRC-cum-DSC, Khordha. On the face of the above, the action of the first party No. 4 amounts to termination of service of the second party and in absence of compliance of the statutory provisions of Section 25-F of the Act, such termination can in no way be held to be legal and justified; the reason being the second party had rendered continuous service for more than nine years under the first party No. 4.

The issue is, therefore, answered in favour of the second party holding the action of the first party No. 4 to be neither legal nor justified.

9. *Issue No. (iv)*— In view of the findings arrived at by this Tribunal on Issue No. (iii), the next question that falls for determination is as to what relief the second party is entitled. The

second party is now aged about 55 years and *in toto* he has served the organization of the first party managements for more than a decade and thereby rendered his prime time in serving the establishment of the first party No. 4. As the action of the first party No. 4 is held to be in gross violation of the provisions of the Act, an order of reinstatement in favour of the second party is found to be an appropriate relief to meet the ends of justice and accordingly this Tribunal directs the first party No. 4. to reinstate the second party in his job forthwith, or in the alternative to pay him a lump sum compensation of Rs. 3,00,000 (Rupees three lakh) only in lieu of his reinstatement and back wages. The authorities of first party Nos. 1 to 3, are impressed upon to see implementation of the Award by the first party No. 4. It is made clear that in case of failure of the first party No. 4 to implement the Award, the second party to pursue his remedy in accordance with law.

The 2-A(2) application is disposed of accordingly.

Dictated and corrected by me.

BENUDHAR PATRA
29-05-2025
Presiding Officer
Industrial Tribunal
Bhubaneswar.

BENUDHAR PATRA
29-05-2025
Presiding Officer
Industrial Tribunal
Bhubaneswar.

[No. 5590—LESI-IR-ID-0037/2025-LESI]

By order of the Governor
MADHUMITA NAYAK
Special Secretary to Government